IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 5707 of 2003(C)

C.C.1296/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR

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PETITIONER: ACCUSED 1 & 2

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1. M.DEVADAS, S/O. ANANDAN,
   MURUTHIYEDAN HOUSE,
   P.O. KAKKAD, KANNUR.

2. KHALID PALLIKKALAKATH, S/O. ABDUL KHADER
   NEAR RAILWAY BRIDGE, P.O. BALIA PATAM,
   KANNUR.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUPERINTENDENT OF POLICE,
   CRIME BRANCH, CID, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.5707 of 2003-C

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Dated this the 1st day of November, 2007

O R D E R

The petitioners who are accused Nos.1 and 2 in C.C.No.1296/2002 in the file of the Judicial Magistrate of the First Class-I, Kannur, are charge sheeted for the offence under Section 474 read with 34 I.P.C have sought for getting quashed the above proceedings alleging that the same amounted to abuse of process of the court.

2. It is the prosecution case that the first petitioner/first accused in order to get a job obtained a false degree certificate from the second petitioner/second accused and fourth accused intending to use the same as genuine. A search was conducted in the premises of the first and second petitioners (A1 & A2) on the basis of an anonymous complaint. Annexures 2 and 3 are the search lists. The search lists would show that both the documents were retrieved from the waste paper baskets in the premises of the first petitioner and the second petitioner respectively. The first petitioner is employed in a travel agency. The second petitioner is running a travel agency. The case has been investigated by the C.B.C.I.D. It is the case of the

petitioners that they had no intention to use the documents as genuine and the same is evident as the recovery of the documents were made from the waste paper baskets. The circumstances under which the documents happened to be placed in the waste paper baskets can only be ascertained after trial. Considering the seriousness of the offence with which they have been charge sheeted and the evidence produced, I find that this is not a fit case to invoke Section 482 Cr.P.C. The Crl.M.C is accordingly dismissed.

3. However, the petitioners will be at liberty to apply for discharge and the court below shall dispose of the above application on merits, if filed, untrammelled by any observations contained in the present order.

K.R.UDAYABHANU,
Judge

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